



Crime (Sentences) Act 1997

1997 CHAPTER 43

PART II

EFFECT OF CUSTODIAL SENTENCES

CHAPTER II

LIFE SENTENCES

Release on licence

28 Duty to release certain life prisoners.

[^{F1}][^{F2}(1A) This section applies to a life prisoner in respect of whom a minimum term order has been made; and any reference in this section to the relevant part of such a prisoner's sentence is a reference to—

- [^{F3}(a) the part of the sentence specified in the minimum term order, or
- (b) in a case where one or more reduction orders has been made in relation to the prisoner (see section 27B), the part of the sentence specified in the most recent of those orders.]]

(1B) But if a life prisoner is serving two or more life sentences—

- (a) [^{F4}this section does not apply to him] unless [^{F5}a minimum term order has been made in respect of each of those sentences]; and
- (b) the provisions of subsections (5) to (8) below do not apply in relation to him until he has served the relevant part of each of them.

(5) As soon as—

- (a) a life prisoner to whom this section applies has served the relevant part of his sentence; and]
- (b) the Parole Board has directed his release under this section,

it shall be the duty of the Secretary of State to release him on licence.

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- (6) The Parole Board shall not give a direction under subsection (5) above with respect to a life prisoner to whom this section applies unless—
 - (a) the Secretary of State has referred the prisoner’s case to the Board; and
 - (b) the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.

[^{F6}(6A) Sections 28A and 28B contain provision that relates to the Parole Board's function of giving directions under subsection (5) for the release of life prisoners.]

- (7) A life prisoner to whom this section applies may require the Secretary of State to refer his case to the Parole Board at any time—
 - (a) after he has served the relevant part of his sentence; and
 - (b) where there has been a previous reference of his case to the Board, after the end of the period of two years beginning with the disposal of that reference;

^{F7}(c)

and in this subsection “previous reference” means a reference under subsection (6) above or section 32(4) below.

- (8) In determining for the purpose of subsection (5) or (7) above whether a life prisoner to whom this section applies has served the relevant part of his sentence, no account shall be taken of any time during which he was unlawfully at large within the meaning of section 49 of the ^{M1}Prison Act 1952.

[^{F8}(8A) In this section “minimum term order” means an order under—

- (a) subsection (2) of section 82A of the Powers of Criminal Courts (Sentencing) Act 2000 (determination of minimum term in respect of life sentence that is not fixed by law), or
- (b) subsection (2) of section 269 of the Criminal Justice Act 2003 (determination of minimum term in respect of mandatory life sentence) [^{F9}, or
- (c) subsection (2) of section 321 of the Sentencing Code (life sentence: minimum term order etc).]]

^{F10}(9)

Textual Amendments

- F1** S. 28(1A)(1B)-(5)(a) substituted for s. 28(1)-(5)(a) (30.11.2000 with effect as mentioned in Sch. 7 para. 145 of the substituting Act) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 136(a)**
- F2** S. 28(1A) substituted (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), **s. 275(1)(2)**, 336(2)
- F3** S. 28(1A)(a)(b) substituted for words in s. 28(1A) (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 128(2)**, 208(5)(l)
- F4** Words in s. 28(1B)(a) substituted (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 275(3)(a)**, 336(2)
- F5** Words in s. 28(1B)(a) substituted (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 275(3)(b)**, 336(2)
- F6** S. 28(6A) inserted (4.1.2021) by [Prisoners \(Disclosure of Information About Victims\) Act 2020 \(c. 19\)](#), **ss. 1(2)**, 3(2); S.I. 2020/1537, reg. 2
- F7** S. 28(7)(c) and word omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 144(1)(a)**, 208(5)(p)
- F8** S. 28(8A) inserted (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), **s. 275(1)(4)**, 336(2)

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- F9** S. 28(8A)(c) and word inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 145](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F10** S. 28(9) repealed (30.11.2000 with effect as mentioned in Sch. 7 para. 145 and notes to Sch. 8 of the repealing Act) by [2000 c. 43](#), ss. 74, 75, [Sch. 7 Pt. II para. 136\(b\)](#), [Sch. 8](#)

Modifications etc. (not altering text)

- C1** S. 28: exercise of functions restricted in or as regards Scotland (30.6.1999) by [S.I. 1999/1748](#), art. 8(2), [Sch. 4 Pt. I para. 1\(1\)](#)
- C2** S. 28 modified (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(2), [Sch. 22 para. 16](#)
- C3** S. 28(1B) modified (30.11.2000) by [2000 c. 43](#), ss. 74, 80(3)(d), [Sch. 7 Pt. II para. 146-148](#)

Marginal Citations

- M1** [1952 c.52](#).

[^{F11}28A Murder or manslaughter: prisoner's non-disclosure of information

- (1) The Parole Board must comply with this section when making a public protection decision about a life prisoner if—
- the prisoner's life sentence was passed for murder or manslaughter;
 - the Parole Board does not know where and how the victim's remains were disposed of; and
 - the Parole Board believes that the prisoner has information about where, or how, the victim's remains were disposed of (whether the information relates to the actions of the prisoner or any other individual) which the prisoner has not disclosed to the Parole Board (“the prisoner's non-disclosure”).
- (2) When making the public protection decision about the life prisoner, the Parole Board must take into account—
- the prisoner's non-disclosure; and
 - the reasons, in the Parole Board's view, for the prisoner's non-disclosure.
- (3) This section does not limit the matters which the Parole Board must or may take into account when making a public protection decision.
- (4) In subsection (1)(a)—
- the reference to a life sentence includes a life sentence passed before the coming into force of section 1 of the Prisoners (Disclosure of Information About Victims) Act 2020;
 - the reference to murder includes—
 - murder under the law of Scotland, Northern Ireland, any of the Channel Islands or the Isle of Man, and
 - any offence under the law of any other country or territory that corresponds to murder under the law of England and Wales;
 - the reference to manslaughter includes—
 - culpable homicide under the law of Scotland,
 - manslaughter under the law of Northern Ireland, any of the Channel Islands or the Isle of Man, and
 - any offence under the law of any other country or territory that corresponds to manslaughter under the law of England and Wales.
- (5) In this section, in relation to a life prisoner—

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“public protection decision” means the decision, made under section 28(6) (b) for the purposes of section 28(5), as to whether the Parole Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;

“victim” means the victim of the offence for which the prisoner's life sentence was passed;

and a reference to the victim's remains being disposed of includes the remains being left at the location where the victim died.

Textual Amendments

F11 Ss. 28A, 28B inserted (4.1.2021) by [Prisoners \(Disclosure of Information About Victims\) Act 2020](#) (c. 19), ss. 1(1), 3(2); S.I. 2020/1537, reg. 2

28B Indecent images: prisoner's non-disclosure of information

- (1) The Parole Board must comply with this section when making a public protection decision about a life prisoner if—
 - (a) the prisoner's life sentence was passed for—
 - (i) an offence of taking an indecent photograph of a child, or
 - (ii) a relevant offence of making an indecent pseudo-photograph of a child;
 - (b) the Parole Board does not know the identity of the child who is the subject of the relevant indecent image; and
 - (c) the Parole Board believes that the prisoner has information about the identity of the child who is the subject of the relevant indecent image which the prisoner has not disclosed to the Parole Board (“the prisoner's non-disclosure”).
- (2) When making the public protection decision about the prisoner, the Parole Board must take into account—
 - (a) the prisoner's non-disclosure; and
 - (b) the reasons, in the Parole Board's view, for the prisoner's non-disclosure.
- (3) This section does not limit the matters which the Parole Board must or may take into account when making a public protection decision.
- (4) In subsection (1)(a), the reference to a life sentence includes a life sentence passed before the coming into force of section 1 of the Prisoners (Disclosure of Information About Victims) Act 2020.
- (5) For the purposes of this section, an offence is an “offence of taking an indecent photograph of a child” if it is—
 - (a) an offence of taking an indecent photograph of a child under section 1(1)(a) of the Protection of Children Act 1978 (the “England and Wales offence”), or
 - (b) an offence of taking an indecent photograph of a child under the law of Scotland, Northern Ireland, any of the Channel Islands, the Isle of Man or any other country or territory that corresponds to the England and Wales offence.
- (6) For the purposes of this section, an offence is a “relevant offence of making an indecent pseudo-photograph of a child” if—

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- (a) it is—
- (i) an offence under section 1(1)(a) of the Protection of Children Act 1978 of making an indecent pseudo-photograph of a child (the “England and Wales offence”), or
 - (ii) an offence of making an indecent pseudo-photograph of a child under the law of Scotland, Northern Ireland, any of the Channel Islands, the Isle of Man or any other country or territory that corresponds to the England and Wales offence, and
- (b) the Parole Board believes that an image of a real child was or may have been used in the making of the pseudo-photograph;

and in the application of this section to a relevant offence of making an indecent pseudo-photograph of a child, the references in subsection (1)(b) and (c) to the child who is the subject of the relevant indecent image are references to the real child.

(7) In this section—

“public protection decision”, in relation to a prisoner, means the decision, made under section 28(6)(b) for the purposes of section 28(5), as to whether the Parole Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;

“relevant indecent image” means—

- (a) the photograph to which an offence of taking an indecent photograph of a child relates, or
- (b) the pseudo-photograph to which a relevant offence of making an indecent pseudo-photograph of a child relates.]

Textual Amendments

F11 Ss. 28A, 28B inserted (4.1.2021) by [Prisoners \(Disclosure of Information About Victims\) Act 2020](#) (c. 19), **ss. 1(1), 3(2)**; S.I. 2020/1537, reg. 2

F12²⁹ Power to release other life prisoners.

Textual Amendments

F12 S. 29 repealed (18.12.2003) by [Criminal Justice Act 2003](#) (c. 44), **ss. 303(b)(i), 336(2)**, **Sch. 37 Pt. 8**

30 Power to release life prisoners on compassionate grounds.

- (1) The Secretary of State may at any time release a life prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner’s release on compassionate grounds.
- (2) Before releasing a life prisoner under subsection (1) above, the Secretary of State shall consult the Parole Board, unless the circumstances are such as to render such consultation impracticable.

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Modifications etc. (not altering text)

- C4** S. 30: exercise of functions restricted in or as regards Scotland (30.6.1999) by [S.I. 1999/1748, art. 8\(2\)](#), [Sch. 4 Pt. I para. 1\(1\)](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 35(5)(c)s. 35(8)(a) by [2000 c. 43 Sch. 7 para. 139\(b\)](#)
- s. 8(5) by [2000 c. 43 Sch. 7 para. 143](#)